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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,967	03/11/2004	Jim Harkey	P114718	4997
22931	7590	10/20/2005	EXAMINER	
HUGHES LAW FIRM, PLLC PACIFIC MERIDIAN PLAZA, SUITE 302 4164 MERIDIAN STREET BELLINGHAM, WA 98226-5583			ALIMENTI, SUSAN C	
		ART UNIT	PAPER NUMBER	
			3644	

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/797,967	HARKEY, JIM
Examiner	Art Unit	
Susan C. Alimenti	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 October 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 4 and 18-20 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-3 and 5-17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.
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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of invention I and, species 1 drawn to Figures 1-8 in the reply filed on 29 August 2005 is acknowledged. The traversal is on the ground(s) that the method and apparatus "overlap sufficiently" (Response & Arguments submitted 7/5/05) such that there is no substantial burden on the examiner. This is not found persuasive because the search of the method is not required for that of the apparatus, since the apparatus maybe used for materially different methods, therefore is it not necessary to detail the search to that particular method.

The requirement is still deemed proper and is therefore made FINAL.

3. Claims 4, 18-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 29 August 2005.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, and 5-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Murray (USPN 5,846,168).

Murray discloses a wrist brace for assisting the user in gripping a pole-like object 118.

Murray's brace comprises a forearm engaging section 24, and a forward hand engagement section 46. Hand interconnecting section 74 contacts forearm connecting portion, which is defined as the portion of section 24 that contacts section 74, in a manner that enables relative limited movement of the forearm engaging portion 24 and the hand engagement section in a side-to-side motion. Said side to side motion occurs about pivot 50, and axis 68 along movement 70.

Regarding claim 2 and 3, the main hand engagement portion is defined as section 96 and is positioned to engage at least a portion of the front palm of the user's hand.

Regarding claims 5-7, pivot member 50 serves to control limited side-to-side, rotational movement, along with the cooperation of the contact surfaces of sections 24 and 74.

Regarding claim 8, as seen in Figures 3 and 4, the contact surfaces of the forearm engaging portion 24 forms with the contact surfaces of the main hand engagement surface 96, to create a substantially longitudinal alignment.

Regarding claims 9 and 15, Murray's brace comprises a rod engaging portion, as viewed in Figures 5-8, defined as the inner portion of hand engagement section 46, which in the operating portion allows free movement of thumb 92, which is a finger, enabling the thumb to also retain the rod.

Regarding claims 10-12 and the above discussion of claim 9, as can be seen in Figure 4 the hand gripping surface 96 is contoured and curved to substantially match the front surface portion of the user's hand or a portion of the finger.

Regarding claims 13 and 14, the rod receiving portion is defined as the inner wall 144 of section 46, as is curved and wraps around rod 118. The rod 118 may move laterally into and out of 154 the recess.

Finally regarding claim 16, section 46 is made of aluminum or Kydex material, which while it is known to be relatively rigid, would provide a user a moderate degree of flexibility is a gripping force were applied on rod 118.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray as applied to claims 1 and 14 above.

Murray discloses the claimed invention except it is not positively disclosed that a material of high be disposed at the rod receiving surface to inhibit twisting of the rod while being gripped. Murray notes that plate forming the rod receiving portion may vary in some ways so long as it accommodates the fingers properly (col.4, ln.66 through col.5, ln.3). It would have been obvious use or add a high friction material to Murray's grip portion in order to allow the user to get a better grip on a pole, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan C. Alimenti



MICHAEL J. CALONE
SUPERVISORY PATENT EXAMINER